



State of California—Health and Human Services Agency  
**Department of Health Services**



**ARNOLD SCHWARZENEGGER**  
Governor

**ACTION:** Notice of Proposed Rulemaking  
Title 22, California Code of Regulations

**SUBJECT: Disinfectants and Disinfection Byproducts in Drinking Water, R-62-00**

**PUBLIC PROCEEDINGS:** Notice is hereby given that the California Department of Health Services will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

**CONTACTS:** In any inquiries or written comments, please identify the action by using the Department regulation control number, **R-62-00**:

**COMMENTS:** Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on July 25, 2005, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations, Department of Health Services, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-7714; or
3. By email to [regulation@dhs.ca.gov](mailto:regulation@dhs.ca.gov) (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "R-62-00" in the subject line to facilitate timely identification and review of the comment), or
4. By using the "Making Comments" link to the Department website at <http://www.dhs.ca.gov/regulation/>.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

#### TO OBTAIN THE REGULATIONS REFERENCED IN THIS NOTICE:

1. Materials regarding these regulations (including this public notice, the regulation text, and the Initial Statement of Reasons) that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/> and then clicking on the "Select DHS regulations" button.
2. In order to request a copy of this regulation package be mailed to you, please call (916) 440-7695 or email [regulation@dhs.ca.gov](mailto:regulation@dhs.ca.gov).

INQUIRIES: Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Alexis M. Milea, P.E., Chief of the Standards and Technology Unit, Drinking Water Program at (510) 540-2177.

All other inquiries concerning the action described in this notice may be directed to Don Lee of the Office of Regulations at (916) 440-7673, or to the designated backup contact person, Linda Tutor, at (916) 440-7697.

Upon request, this document will be made available in Braille, large print, and audiocassette or computer disk. To obtain a copy in one of these alternate formats, please call or write: Don Lee, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 440-7673 and/or California Relay at 711/1-800-735-2929.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (USEPA) under the Safe Drinking Water Act (42 U.S.C. 300f, et seq.) as well as by the California Department of Health Services (Department) under the California Safe Drinking Water Act (Sections 116270-116751, Health and Safety Code [H&S Code]). California has been granted "primacy" for the enforcement of the Federal Act. In order to receive and maintain primacy, states must promulgate regulations that are no less stringent than the federal regulations.

On December 7, 1998, with revisions on January 16, 2001, the USEPA promulgated regulations that required water systems to comply with a combination of new maximum contaminant levels (MCLs), maximum residual disinfectant levels (MRDLs) and a treatment technique to improve control of disinfectant and disinfection byproducts (Federal Register, Vol. 63, No. 241 and Federal Register, Vol. 66, No. 10). These requirements, known as the Disinfectants/Disinfection Byproducts Rule (DBPR), apply to all utilities defined as community or nontransient-noncommunity systems that treat their water with a chemical disinfectant.

Pursuant to federal primacy requirements and section 116375 of the H&S code, the Department proposes the following changes to title 22:

#### Chapter 15, Article 1

- To amend section 64400 by revising the definition of acute risk.
- To amend sections 64400.30, 64400.40, 64400.42, 64400.44, 64400.45, and 64400.47 by changing the section numbers to 64400.25, 64400.28, 64400.30, 64400.32, 64400.34, and 64400.42, respectively.
- To add necessary definitions by adopting sections 64400.36, 64400.38, 64400.40, 64400.45, 64400.47, 64400.67, 64401.65, 64401.82, and 64401.92.

#### Chapter 15, Article 4.5

- To amend section 64439 (Trihalomethanes requirements) by updating the Federal Register citations, thereby incorporating by reference any revisions to sections 141.2 (p), (q), (r), (s) and (t), 141.6, 141.2 and 141.30 of Title 40, Code of Federal Regulations (CFR), as published in the December 16, 1998, Federal Register (Vol. 63, No. 241) and the January 16, 2001, Federal Register (Vol. 66, No 10).

#### Chapter 15, Article 19

- To amend section 64464.3 (Public notification-water quality failure), by adding provisions for disinfectants and disinfection byproducts and deleting provisions for nitrate (redundant as nitrate MCL is included in Section 64431 for inorganic chemicals) and turbidity (obsolete as turbidity is now regulated under Chapter 17, Surface Water Treatment Rule).
- To amend section 64464.6 (Public notification-procedural failure), by adding provisions for disinfectants, disinfection byproducts, and disinfection byproduct precursors.
- To amend section 64465 (Notification of an acute risk), by adding provisions for disinfectants.
- To adopt section 64468.5 (Health effects language for disinfectants and disinfection byproducts).

#### Chapter 15.5

- To amend title 22 by adopting chapter 15.5 and the following sections detailing disinfectant residuals, disinfection byproducts, and disinfection byproduct precursor requirements:
  - Section 64530 Applicability of this chapter
  - Section 64531 Definitions governing terms used in this chapter
  - Section 64533 Maximum contaminant levels for disinfection byproducts
  - Section 64533.5 Maximum residual disinfectant levels
  - Section 64534 General monitoring requirements. This section incorporates by reference both sections 141.131 of Title 40, CFR, as published in the December 16, 1998, Federal Register (Vol. 63, No. 241) and revised in the January 16, 2001, Federal Register (Vol. 66, No. 10) and 40 CFR Part 141 Subpart M (Information Collection Rule), as published in the May 14, 1996 Federal Register (Vol. 61, No. 94).

- Section 64534.2 Disinfection byproducts monitoring
- Section 64534.4 Disinfectant residuals monitoring
- Section 64534.6 Disinfection byproduct precursors (DBPP) monitoring
- Section 64534.8 Monitoring plans
- Section 64535 General requirements for determining compliance
- Section 64535.2 Determining disinfection byproducts compliance
- Section 64535.4 Determining disinfectant residuals compliance
- Section 64536 Alternatives to the enhanced coagulation and enhanced softening requirements
- Section 64536.2 Enhanced coagulation and enhanced softening performance
- Section 64536.4 Disinfection byproduct precursor (DBPP) compliance calculations
- Section 64536.6 Disinfection byproduct precursor (DBPP) public notification requirements
- Section 64537 General reporting requirements
- Section 64537.2 Disinfection byproducts reporting
- Section 64537.4 Disinfectants reporting
- Section 64537.6 Disinfection byproduct precursors and enhanced coagulation or enhanced softening reporting

The Department has made a few minor changes to the federal language, as allowed under the federal primacy requirements:

In subsection 64533(b), the Department added “or other technology to limit disinfection byproducts” in addition to granular activated carbon (GAC) and membranes.

For clarity, the Department has also made minor changes in the language of other sections consistent with the federal intent and as allowed under the federal primacy requirements.

The net effect is that:

Community water systems and nontransient-noncommunity water systems that provide or treat water with a chemical disinfectant in any part of the treatment process would be required to comply with the MCLs for disinfectant byproducts, the MRDLs for disinfectants and the treatment technique requirements for disinfection byproduct precursors.

Transient noncommunity systems using chlorine dioxide would be required to comply with the requirements for chlorine dioxide.

None of the proposed amendments would affect California’s primacy status, because the net effect of these amendments is that the state’s regulation would be at least as stringent as the federal regulation.

AUTHORITY: Sections 100275, 116325, 116350, 11370, 116375, 116385, and 116450, Health and Safety Code.

REFERENCE: Sections 100275, and 116275 through 116750, Health and Safety Code.

FISCAL IMPACT ESTIMATE:

- A. Fiscal Effect on Local Government: The estimated cost to local governments, which operate public water systems, is \$114 million annually to implement the proposed DBPR monitoring and compliance requirements.
- B. Fiscal Effect on State Government: The estimated cost to state government is \$1.5 million annually to implement the proposed DBPR monitoring and compliance requirements.
- C. Fiscal Effect on Federal Funding of State Programs: The estimated cost to the federal government is \$1.2 million annually to implement the proposed DBPR monitoring and compliance requirements.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The estimated cost to private persons and businesses which operate public water system is \$20,904,000 annually to implement the proposed DBPR monitoring and compliance requirements.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS: The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code because this regulation implements the Federal mandate contained in the Federal Register Vol. 63, No. 241, December 16, 1998.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California. The requirements summarized above should not have any affect in this area in that there would not be any significant change in water system or regulatory personnel needed for compliance with the new requirements.
2. The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the water industry is such that the adoption of the proposed regulations would not result in the creation or elimination of water systems.

The impact of the proposed regulations would be insignificant. The proposed regulations would not have any affect on the number of businesses in California.

3. The expansion of businesses currently doing business within the State of California. Since water system size is basically a function of the number of service connections (consumers) served, the proposed regulations should not have any affect on expansion.

The Department has determined that the regulations would not affect small business because Government Code section 11342.610(b)(8) excludes utilities and water companies from the definition of small business.

The Department has determined that the regulations will have no impact on housing costs.

The Department has determined that no alternative considered by the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS:** The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. A copy of the initial statement of reasons and a copy of the text of the proposed regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the proposed regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT:** The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

**ADDITIONAL STATEMENTS AND COMMENTS:** In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close

of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Don Lee, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 440-7673 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten working days prior to a public hearing.

#### DEPARTMENT OF HEALTH SERVICES

R-62-00

Dated:

Sandra Shewry  
Director